

An amendment by Representative SANDERS on laws relating to minimum standards for labor protections;

An amendment by ranking member COLLINS of Illinois to exclude laws relating to airport security;

Amendments by Representative SPRATT to exclude laws relating to Medicare and nuclear regulation; and

An amendment by Representative BARRETT to exclude sentencing guidelines.

It is difficult to see the logic in excluding laws which would seek to transfer the burden for our national defense to the States from the application of the bill, but not exclude laws which are designed to protect all Americans such as those described above. During the course of debate, it was contended the law merely requires an affirmative vote for unfunded mandates, but as the discussion above indicates, unless the law is amended, protections of average Americans, children, seniors, pregnant mothers, and others could be jeopardized.

Extending the bill's provisions to laws of general applicability to the private sector could lead to undesired consequences. The definition of an intergovernmental mandate is so broad that many laws directed at the private sector could be thwarted because of their indirect effect upon the public sector. In addition, in cases which the private sector competes with the public sector in enterprises such as power generation, the private sector enterprises could be placed at a competitive disadvantage.

Some examples of these laws were brought up at the hearing. An increase in the minimum wage law could be defeated by a point of order if funds were not provided to pay for the increased costs for State and local employees, unless the law exempted State and local employees.

Laws designed to protect investors in derivatives could be thwarted if they were made applicable to municipal purchasers if it could be found to be an unfunded mandate.

Laws which establish various protections for workplace safety would either have to fund State or local government costs of compliance or exempt those governments from compliance.

These results seem directly contrary to two principles that have broad support in the Congress. First, the House approved H.R. 1, the Congressional Accountability Act to make a variety of private sector laws applicable to Congress. Why are we now passing a law that would provide one set of protections to private sector workers and fewer protections to public sector workers?

Second, why are we giving public sector enterprises, such as power generators, natural gas pipelines, and waste treatment facilities a competitive advantage over private sector enterprises? If this unequal treatment is not resolved, it is foreseeable that private sector enterprises will over time be converted to public sector enterprises.

Mandates designed to protect States from harmful effects caused by neighboring States should be excluded from this act. An amendment by ranking member COLLINS of Illinois was defeated that would exclude from the application of the bill laws that regulated the conduct of States, local governments, or tribal governments with respect to matters that significantly impact the health or safety of resi-

dents of other States, local governments, or tribal governments, respectively.

Certain Federal laws that place costs on governments are designed to protect residents of neighboring States. For example, as Representative TAYLOR of Mississippi described during the markup, the people of his district located at the base of the Mississippi River are deeply affected by the ways in which States along the Mississippi treat their sewage. Unless the Federal Government was willing to pay the polluting States for the cost of their waste treatment, the Federal Government could not protect the victims of this pollution in neighboring States.

Why shouldn't the polluter pay? Why should this be the responsibility of the victimized State's residents?

This is not a hypothetical situation. All over the country, there is dumping of raw sewage and hospital wastes. Incinerators are blowing toxic smoke over State lines. Unless the Federal Government can act to protect citizens from the pollution caused by their neighboring States, the health and safety of the American people will be jeopardized.

Why are appropriations acts excluded from the application of the bill? One of the more likely examples of an unfunded mandate is an appropriations bill that fails to fully fund a Federal mandate. Yet the bill excludes appropriations acts from the applicability of the legislation.

It is unclear why we would want to exempt this broad category of laws. To the contrary, Members should receive a full accounting from the Appropriations Committee and the Congressional Budget Office concerning the level to which the appropriations fail to adequately fund mandates on State and local governments.

Why should we create a new Federal bureaucracy to study unfunded mandates? Title I of the bill establishes an entirely new commission with funding of \$1 million to study the costs of unfunded mandates. Americans have expressed an interest in less Government, not more Government, yet the first bill that our committee reports establishes another new Government body.

After an amendment by Representative MEEK to eliminate this new commission was defeated, she offered a second amendment to transfer the functions to the already existing Advisory Committee on Intergovernmental Relations. At the request of Chairman CLINGER, Representative MEEK withdrew this amendment.

The new commission would also establish a troubling precedent. The bill calls for the Speaker and Senate majority leader to each appoint three members of the commission, after consultation with the minority leaders. An amendment offered by Representative WAXMAN to have the Speaker and Senate majority leader each appoint three members, and the minority leaders to each appoint one member, as current laws operate, was defeated.

#### SUMMARY

As described above, many Democrats favor increased scrutiny of unfunded mandates. Particularly at a time, when the Federal Government is seeking to reduce its deficits, the lure of cost shifting to the States must be resisted.

However, in fashioning a responsible bill on mandates, there are important details that have not been carefully addressed. It must be understood that Americans do not wish to see

many programs that are designed to protect their health and safety dismantled because they have now been labeled an unfunded mandate.

In the end the advisability of passing any law cannot be solely determined by a cost estimate by the Congressional Budget Office. Not only are such estimates difficult to make, as the Director of CBO has pointed out, but the other side of the equation must be addressed: namely, the benefits that the legislation will yield.

We must legislate responsibly, particularly in this field. We, not the Director of CBO, must ultimately take responsibility for our actions. While we should require as much information as possible in making our decisions, legislation on this subject must be carefully drafted to avoid unanticipated consequences.

One of the purposes of H.R. 5 is "to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance." Unfortunately, in their haste to enact provisions of the Contract With America, the majority has precluded the kind of informed and deliberate decisionmaking process it professes to promote.

Mr. CLINGER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LINDER) having assumed the chair, Mr. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5), to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes, had come to no resolution thereon.

#### ADJOURNMENT TO MONDAY, JANUARY 23, 1995

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 259

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of H.R. 259, a bill

to amend title 49, United States Code, to eliminate provisions of Federal law that provide special support for, or burdens on, the operation of Amtrak as a passenger rail carrier, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

#### STATES ARE BEING SHORTCHANGED ON MEDICAID

(Mrs. THURMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. THURMAN. Mr. Speaker, all of us in this Congress should be dedicated to making sure that our scarce resources go to those Americans most in need of assistance.

However, this is not what is happening with Medicaid.

That is right, Mr. Speaker. When it comes to the Medicaid Program, many of our States, including my own home State of Florida, are being shortchanged. We are being shortchanged because the Medicaid funding formula, which is 30 years old, is neither fair nor accurate. Under the formula in use since the Medicaid Program was created, a State's need is based solely on per capita income.

In 30 years, we have developed much more accurate ways to measure true need and we should use them.

The General Accounting Office has recognized the shortcomings of the current formula. In a report the GAO recommended a new formula that takes into account the rate of poverty as well as per capita and corporate income. The GAO has said this will be a much more accurate reflection of a State's ability to finance Medicaid benefits. It would also ensure that assistance went where it is most needed.

The Fairness in Medicaid Funding Act of 1995, which I am introducing today puts in place the GAO's recommendation.

I would urge my colleagues to join me in correcting the Medicaid funding formula.

Mr. Speaker, as is often the case in Washington, the Federal Government does not always target its resources to those individuals who need them the most. Unfortunately, when it comes to how the Federal Government calculates the Medicaid matching fund formula, the existing Federal formula creates an unfair distribution of Medicaid funding to the States.

I am committed to continue the debate over the inequity until we arrive at a fair remedy. Therefore, I rise today to reintroduce the Fairness in Medicaid Funding Act of 1995.

My bill would update the Federal Medicaid funding formula and result in a fair and accurate disbursement to the States. The General Accounting Office [GAO] has evaluated the existing Medicaid formula and has concluded that it does not meet the objectives established by Congress in 1965. The GAO examined the objectives Congress was attempting to achieve and developed an alternative for-

mula to meet these stated goals. My bill, the Fairness in Medicaid Funding Act of 1995, would use the GAO formula not to change policy but only the process by which Medicaid dollars are allocated.

The essence of the existing Medicaid formula has been unchanged for 30 years. Congress had two intentions when they created the formula. First, that Federal matching funds should reflect a State's ability to pay benefits to those in need. And, second, Congress wanted to determine how many residents of each State needed Medicaid benefits.

At the time, the best information available to measure these objectives was an estimate of each State's per capita income. Thirty years ago this information was the best available to Congress. But during the last two decades, the Federal Government has collected more and better economic data.

Mr. Speaker, today there are much better measurements available, and we should use them.

A significant weakness of the current formula is that it does not adequately reflect a State's ability to pay its share. The money a State can pay in Medicaid benefits should also reflect the income its residents and businesses produce. However, a measurement of per capita income reflects only part of the total income produced by a State's residents and businesses.

Per capita income does not include corporate retained earnings, which is a significant share of a State's business income. Therefore, two States with the same per capita income may actually have significantly different capacities to fund Medicaid benefits.

Furthermore, the per capita income formula does not adequately measure the total number of people in need of Medicaid benefits. That need is determined by the number of residents with incomes low enough to qualify for Medicaid. Again, two States with roughly equal per capita incomes can have dramatically different percentages of residents qualifying for Medicaid. Yet, both States would receive the same matching rate from the Federal Government. This just does not make sense any more and it needs to be changed.

My proposal, based on the GAO's recommendations, would base the Federal share for Medicaid on: First, per capita income plus corporate income produced within a State. This is a much more accurate measure of a State's ability to finance Medicaid benefits. Second, the State's poverty rate, which generally indicates the number of persons who are potentially in need of Medicaid benefits.

All these statistics are already compiled for other purposes by the Federal Government. Moreover, this proposal does not cost the Federal Government one dollar—it is budget neutral.

Mr. Speaker, the passage of the Fairness in Medicaid Act of 1995 will ensure that States receive, not only what they need, but what they deserve from Washington. This plan is based upon a fair, objective, and contemporary evaluation of each State's needs and capacity.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MARTINI] is recognized for 5 minutes.

[Mr. MARTINI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

[Mr. EHLERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### REMARKS ON WELFARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, as a member of the Committee on Economic and Educational Opportunities, formerly the Education and Labor Committee, and one who has chaired a subcommittee with jurisdiction over the Job Opportunities and Basic Skills Program, I have spent much of my congressional career dealing with the issue of welfare and the various means this body and that committee has considered for reforming that system.

The welfare system in this country is clearly not achieving the purposes for which it was designed.

When it was originally designed, it was a program designed to protect children from the ravages of poverty that are likely outcomes of the death of the family breadwinner—which in 1935 meant the father.

Since the mid 1960's, when it was reformed under President Lyndon Baines Johnson, it has been extended to cover the children of those whose personal circumstances—whether as a result of a death of the breadwinner, a family breakup or desertion of the family by the breadwinner, the lack of jobs for any adult in the family, or because of an out-of-wedlock birth—prevented them from being economically self-sufficient.

The object was, and continues to be, the children, who are our future.

Welfare in the form of Aid to Families With Dependent Children is based on the belief that our children are our future, and caring for those children so that they can reach adulthood with the necessary education, nurturing, and social skills that will enable them to become productive members of society.